

**ASSEMBLY BILL**

**No. 1428**

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**Introduced by Assembly Member Galgiani**

February 23, 2007

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An act to add Section 2826.7 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as introduced, Galgiani. Energy: biomass conversion customer-generator pilot program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program.

Existing law authorizes California State University, Fresno, until January 1, 2008, to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a biomass conversion facility located in Reedley and owned by California State University, Fresno (the Dinuba Facility), and requires the commission to adopt a rate tariff for the benefiting account.

This bill would require electrical corporations to provide eligible biomass conversion customer-generators with net energy metering, as defined, under a pilot program. The bill would prescribe conditions

under which these customers may participate in the pilot program established by the bill and would require the electrical corporation to file a standard tariff providing for net energy metering for eligible biomass conversion customer-generators. The bill would require the commission, in consultation with the State Air Resources Board, to report certain information relative to the pilot program to the Legislature by December 31, 2010.

Under existing law, the failure to file a required tariff, or a violation of an order or direction of the commission, including a commission-approved tariff, is a crime. Because the bill would require electrical corporations to file new tariffs and would continue tariffs in effect past their current repeal date, the bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 2826.7 is added to the Public Utilities
- 2 Code, to read:
- 3 2826.7. (a) (1) The Legislature finds and declares that a pilot
- 4 program to provide net energy metering for eligible biomass
- 5 conversion customer-generators would enhance the continued
- 6 diversification of California's energy resource mix and would
- 7 dispose of livestock wastes thereby protecting the environment.
- 8 (2) The Legislature further finds and declares that the net energy
- 9 metering pilot program authorized pursuant to this section for
- 10 biomass conversion customer-generators, which nets out generation
- 11 charges against generation charges on a time-of-use basis, furthers
- 12 the intent of Chapter 7 of the Statutes of 2001, First Extraordinary
- 13 Session, by facilitating the implementation of energy efficiency
- 14 programs in order to reduce consumption of energy, reduce the
- 15 costs associated with energy demand, and achieve a reduction in
- 16 peak electricity demand.
- 17 (b) As used in this section, the following definitions apply:

1 (1) "Electrical corporation" means an electrical corporation, as  
2 defined in Section 218.

3 (2) "Eligible biomass conversion customer-generator" means  
4 a customer of an electrical corporation that meets both of the  
5 following criteria:

6 (A) Uses biomass conversion, as defined in Section 40106 of  
7 the Public Resources Code, technology with a capacity of not more  
8 than one megawatt that is located on or in close proximity to the  
9 customer's owned, leased, or rented premises, is interconnected  
10 and operates in parallel with the electric grid, and is sized to offset  
11 part or all of the eligible biomass conversion customer-generator's  
12 own electrical requirements.

13 (B) Is the recipient of local, state, or federal funds, or who  
14 self-finances pilot projects designed to encourage the development  
15 of eligible biomass conversion electrical generating facilities.

16 (3) "Eligible biomass conversion electrical generating facility"  
17 means a generating facility used to produce electricity from animal  
18 waste through pyrolysis or other means of biomass conversion, as  
19 defined in Section 40106 of the Public Resources Code.

20 (4) "Net energy metering" means measuring the difference  
21 between the electricity supplied through the electric grid and the  
22 difference between the electricity generated by an eligible biomass  
23 conversion customer-generator and delivered to the electric grid  
24 over a 12-month period as described in subdivision (e). Net energy  
25 metering shall be accomplished using a time-of-use meter capable  
26 of registering the flow of electricity in two directions. If the existing  
27 electrical meter of an eligible biomass conversion  
28 customer-generator is not capable of measuring the flow of  
29 electricity in two directions, the eligible biomass conversion  
30 customer-generator shall be responsible for all expenses involved  
31 in purchasing and installing a meter that is able to measure  
32 electricity flow in two directions. If an additional meter or meters  
33 are installed, the net energy metering calculation shall yield a result  
34 identical to that of a time-of-use meter.

35 (c) Every electrical corporation shall file with the commission  
36 a standard tariff providing for net energy metering for eligible  
37 biomass conversion customer-generators, consistent with this  
38 section. Every electrical corporation shall make this tariff available  
39 to eligible biomass conversion customer-generators upon request,  
40 on a first-come, first-served basis, until the combined statewide

1 cumulative rated generating capacity used by the eligible biomass  
2 conversion customer-generators in the service territories of the  
3 three largest electrical corporations in the state reaches 50  
4 megawatts. An eligible biomass conversion customer-generator  
5 shall be eligible for the tariff for the life of the eligible biomass  
6 conversion electrical generating facility.

7 (d) Each net energy metering contract or tariff shall be identical,  
8 with respect to rate structure, all retail rate components, and any  
9 monthly charges, to the contract or tariff to which the same  
10 customer would be assigned if the customer was not an eligible  
11 biomass conversion customer-generator, except as set forth in  
12 subdivision (e). Any new or additional demand charge, standby  
13 charge, customer charge, minimum monthly charge,  
14 interconnection charge, or other charge that would increase an  
15 eligible biomass conversion customer-generator's costs beyond  
16 those of other customers in the rate class to which the eligible  
17 biomass conversion customer-generator would otherwise be  
18 assigned are contrary to the intent of this legislation, and shall not  
19 form a part of net energy metering tariffs.

20 (e) The net energy metering calculation shall be made by  
21 measuring the difference between the electricity supplied to the  
22 eligible biomass conversion customer-generator and the electricity  
23 generated by the eligible biomass conversion customer-generator  
24 and delivered to the electric grid over a 12-month period. The  
25 following rules shall apply to the annualized metering calculation:

26 (1) The eligible biomass conversion customer-generator shall,  
27 at the end of each 12-month period following the date of final  
28 interconnection of the eligible biomass conversion  
29 customer-generator's system with an electrical corporation, and  
30 at each anniversary date thereafter, be billed for electricity used  
31 during that period. The electrical corporation shall determine if  
32 the eligible biomass conversion customer-generator was a net  
33 consumer or a net producer of electricity during that period. For  
34 purposes of determining if the biomass conversion  
35 customer-generator was a net consumer or a net producer of  
36 electricity during that period, the electrical corporation shall  
37 aggregate the electrical load of a livestock or poultry operation  
38 under the same ownership or related ownership, including the  
39 electrical load attributable to production and processing operations,  
40 heating and cooling of livestock or poultry production facilities,

1 refrigeration for farm products and water pumping located on  
2 property adjacent or in close proximity to the livestock or poultry  
3 operation. Each aggregated account shall be billed and measured  
4 according to a time-of-use rate schedule.

5 (2) At the end of each 12-month period, if the electricity supplied  
6 during the period by the electrical corporation exceeds the  
7 electricity generated by the eligible biomass conversion  
8 customer-generator during that same period, the eligible biomass  
9 conversion customer-generator is a net electricity consumer and  
10 the electrical corporation shall be owed compensation for the  
11 eligible biomass conversion customer-generator's net kilowatthour  
12 consumption over that same period. The compensation owed for  
13 the eligible biomass conversion customer-generator's consumption  
14 shall be calculated as follows:

15 (A) The generation charges for any net monthly consumption  
16 of electricity shall be calculated according to the terms of the tariff  
17 to which the same customer would be assigned to or be eligible  
18 for if the customer was not an eligible biomass conversion  
19 customer-generator. When those eligible biomass conversion  
20 customer-generators are net generators during any discrete  
21 time-of-use period, the net kilowatthours produced shall be valued  
22 at the same price per kilowatthour as the electrical corporation  
23 would charge for retail kilowatthour sales for generation, exclusive  
24 of any surcharges, during that same time-of-use period. If the  
25 eligible biomass conversion customer-generator's time-of-use  
26 electrical meter is unable to measure the flow of electricity in two  
27 directions, the eligible biomass conversion customer generator  
28 shall be responsible for all expenses for purchasing and installing  
29 of metering that is able to measure electricity flow in two directions  
30 consistent with paragraph (4) of subdivision (b). All other charges,  
31 other than generation charges, shall be calculated in accordance  
32 with the eligible biomass conversion customer-generator's  
33 applicable tariff and based on the total kilowatthours delivered by  
34 the electrical corporation to the eligible biomass conversion  
35 customer-generator. To the extent that charges for transmission  
36 and distribution services are recovered through demand charges  
37 in any particular month, standby reservation charges shall not apply  
38 in that monthly billing cycle.

39 (B) The net balance of moneys owed shall be paid in accordance  
40 with the electrical corporation's normal billing cycle.

(3) At the end of each 12-month period, if the electricity generated by the eligible biomass conversion customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible biomass conversion customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible biomass conversion customer-generator are not owed any compensation for those excess kilowatthours.

(4) If an eligible biomass conversion customer-generator terminates service with the electrical corporation, the electrical corporation shall reconcile the eligible biomass conversion customer-generator's consumption and production of electricity during any 12-month period.

(f) A biomass conversion electrical generating facility is not eligible for participation in the tariff established pursuant to this section if it has not commenced operation by December 31, 2011. A biomass conversion customer-generator is eligible for the tariff established pursuant to this section only for the operating life of the eligible biomass conversion electrical generating facility.

(g) A biomass conversion electrical generating facility that is subject to the best available control technology (BACT) requirements is not eligible for participation in the tariff pursuant to this section unless the biomass conversion electrical generating facility has installed the best available control technology as required by the local air pollution control district or air quality management district at the time of installation to ensure the maximum feasible reductions in toxic and criteria pollutants.

(h) On or before December 31, 2010, the commission, in collaboration with the State Air Resources Board, shall report to the Legislature all of the following information:

(1) The impact of the pilot program on emissions of air pollutants.

(2) The impact of the pilot program on the reliability of the transmission and distribution grid.

(3) The impact of the pilot program on ratepayers.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1   infraction, eliminates a crime or infraction, or changes the penalty  
2   for a crime or infraction, within the meaning of Section 17556 of  
3   the Government Code, or changes the definition of a crime within  
4   the meaning of Section 6 of Article XIII B of the California  
5   Constitution.

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